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Security Council

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Working Group on Children and Armed Conflict

Conclusions on Children and Armed Conflict in South Sudan

1. At its 53rd meeting, on 6 February 2015, the Security Council Working Group on Children and Armed Conflict examined the first report of the Secretary-General on children and armed conflict in South Sudan (S/2014/884), introduced by the Special Representative of the Secretary-General for Children and Armed Conflict. The Permanent Representative of South Sudan to the United Nations also addressed the Working Group.

2. The members of the Working Group welcomed the submission of the report of the Secretary-General, in accordance with Security Council resolutions 1612 (2005), 1882 (2009), 1998 (2011), 2068 (2012) and 2143 (2014), and took note of the analysis and recommendations contained therein.

3. The members of the Working Group noted the progress that was made by the Government of South Sudan, between independence and November 2013, in protecting children affected by armed conflict, including the signing of action plans.

4. However, the members of the Working Group expressed deep concern that the outbreak of hostilities in December 2013 has seriously undermined this progress as violations and abuses continue to be committed against children by all parties to the armed conflict, including the Sudan People's Liberation Army (SPLA), SPLA in Opposition and armed groups operating in their support, such as the White Army, affecting tens of thousands of children. They expressed concern over the recruitment and use of children by parties to the armed conflict, including through quotas imposed upon community leaders.

5. The members of the Working Group emphasized the importance of fighting impunity and called for all perpetrators of violations and abuses committed against children in the armed conflict to be held accountable.

6. Furthermore, they stressed the need for a comprehensive approach that takes into account the needs of children in disarmament, demobilization and reintegration programmes, including the specific needs and capacities of girls.

7. The members of the Working Group welcomed the release of 249 children from the South Sudan Democratic Movement/Army Cobra faction in January 2015 and noted that more children were expected to be released.

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8. Despite this positive development, the members of the Working Group subsequently expressed their alarm at the abduction and forced recruitment of hundreds of children from Malakal in February 2015.

9. The Permanent Representative of South Sudan reaffirmed the Government of South Sudan's commitment to the protection of children, briefed on South Sudan's posture on the Convention on the Rights of the Child and further elaborated that the delay in completing legal formalities for expressing its consent to be bound by the Convention was due to the onset of conflict after 15 December 2013. He noted various factors that created challenges in preventing the recruitment and use of children. He also commented on the dilemma between punitive justice and peacemaking.

10. The statement made by the Permanent Representative of South Sudan is annexed to the present conclusions.

11. Further to the meeting, and subject to and consistent with applicable international law and relevant Security Council resolutions, including resolutions 1612 (2005), 1882 (2009), 1998 (2011), 2068 (2012) and 2143 (2014), the Working Group agreed to the direct action as set out below.

Public statement by the Chair of the Working Group

12. The Working Group agreed to address a message to all parties to the armed conflict in South Sudan, in particular SPLA, SPLA in Opposition and armed groups operating in their support such as the White Army, through a public statement by its Chair:

(a) Strongly condemning all violations and abuses that continue to be committed against children in South Sudan by all parties to the armed conflict, reminding them of their obligations under applicable international law, and urging them to take all necessary measures to immediately end and prevent all such violations and abuses, including those involving the recruitment and use of children, killing and maiming, rape and other forms of sexual violence, abductions, attacks against schools and hospitals and denial of humanitarian access as well as the military use of schools in violation of applicable international law;

(b) Expressing deep concern at the continuing recruitment and use of children in violation of applicable international law, strongly urging all parties to the armed conflict to immediately and without preconditions release all children within their ranks, and calling upon parties to the armed conflict that have not done so to grant the United Nations unhindered access for verification and release of children associated with all parties;

(c) Stressing the need for intercommunal tensions and violence in South Sudan to be addressed through inclusive dialogue, and urging parties to intercommunal conflict to take immediate and specific measures to protect children and prevent all violations and abuses based on tribal affiliations;

(d) Stressing that abduction, including as a means of recruitment or as part of intercommunal violence, is a violation against children in armed conflict as identified by the relevant Security Council resolutions, in particular resolution 1539 (2004), and calling on all parties to the armed conflict to immediately release abducted children and allow for reunification with their families;

(e) Recognizing the continued importance of tackling sexual violence in South Sudan, and urging all parties to the armed conflict to take immediate and specific measures to put an end to and prevent the perpetration of rape and other forms of sexual violence against children;

(f) Condemning the attacks against humanitarian personnel and facilities, emphasizing that impediment of the delivery of humanitarian assistance can constitute a breach of international humanitarian law, and calling upon all parties to the armed conflict, including SPLA, to ensure full, safe and unhindered humanitarian access for the United Nations and its humanitarian partners to deliver timely humanitarian assistance to the affected population, including children;

(g) Expressing deep concern over the lack of accountability for violations and abuses committed against children by all parties to the armed conflict, and urging the Government of South Sudan to put an end to impunity by ensuring that all perpetrators of violations and abuses are swiftly brought to justice and held accountable, including through rigorous, timely, independent and impartial investigation and prosecution;

(h) Recalling that the Security Council, in its resolution 2206 (2015), recognized the work of the African Union Commission of Inquiry in investigating and documenting violations as well as abuses of international human rights law and international humanitarian law in South Sudan, anticipated with interest its findings and recommendations, encouraged the public release of its final report as soon as possible, and welcomed the further engagement of the African Union to ensure justice and accountability, as well as healing and reconciliation for South Sudan;

(i) Expressing concern at the continued disregard of the Cessation of Hostilities Agreement signed in January 2014 and the recommitments to the agreement thereafter, and urging all parties to immediately cease military operations and to engage in an open and fully inclusive national dialogue seeking to establish lasting peace and reconciliation;

(j) Expressing deep concern that the armed conflict, and the continued military use of schools in violation of applicable international law, have negatively impacted children's safety and access to education, and calling upon all parties to the conflict to comply with applicable international law, to respect the civilian character of schools and hospitals, including their personnel, and to end and prevent attacks or threats of attacks against those institutions and their personnel;

(k) Welcoming the engagement of the Government of South Sudan on the "Children, Not Soldiers" campaign and the launch of the campaign at the national level on 29 October 2014, and urging the Government of South Sudan to take the necessary measures towards preventing and ending recruitment and use of children by government forces no later than the end of 2016;

(l) Urging all parties to the conflict to implement the previous conclusions of the Working Group on children and armed conflict in South Sudan (S/AC.51/2012/2);

(m) Urging the Government of South Sudan to implement all provisions of the recommitment agreement to the revised action plan signed on 24 June 2014 to end all violations against children and the recent joint communiqué dated

12 October 2014 between the Government of South Sudan and the Special Representative of the Secretary-General on Sexual Violence in Conflict;

(n) Urging SPLA in Opposition to implement the Commitment Agreement to End Grave Violations against Children, signed by the leader of SPLA in Opposition and the Special Representative of the Secretary-General for Children and Armed Conflict on 10 May 2014, and to continue to engage with the country task force on monitoring and reporting to sign and implement an action plan to end and prevent violations and abuses against children;

(o) Recalling that the Security Council, by its resolution 2206 (2015), decided to apply financial and travel measures to individuals and entities as designated for such measures by the Committee established pursuant to paragraph 16 of the above-mentioned resolution for actions that may include:

(i) Use or recruitment of children by armed groups or armed forces in the context of the armed conflict in South Sudan;

(ii) Targeting of civilians, including children, through the commission of acts of violence (including killing, maiming, torture or rape or other sexual violence), abduction, enforced disappearance, forced displacement or attacks on schools, hospitals, religious sites or locations where civilians are seeking refuge, or through conduct that would constitute a serious violation or abuse of international human rights law or international humanitarian law;

(iii) Obstruction of the activities of international peacekeeping, diplomatic or humanitarian missions in South Sudan, including the Intergovernmental Authority on Development (IGAD) Monitoring and Verification Mechanism, or of the delivery or distribution of, or access to, humanitarian assistance;

(p) Expressing its readiness to communicate to the Security Council pertinent information with a view to assisting the Council in the imposition of targeted measures on perpetrators.

Recommendations to the Security Council

13. The Working Group agreed to recommend that the President of the Security Council transmit a letter addressed to the Government of South Sudan:

(a) Welcoming the efforts made by the Government of South Sudan since the previous conclusions of the Working Group on children and armed conflict in South Sudan (S/AC.51/2012/2), in particular the signing of the revised action plan by the Government of South Sudan on 13 March 2012, subsequently renewed on 24 June 2014, and taking note of the progress made in the implementation of the revised action plan until December 2013;

(b) Welcoming the launch at the national level of the "Children, Not Soldiers" campaign on 29 October 2014, and urging the Government of South Sudan to take the necessary measures towards preventing and ending recruitment and use of children by government forces no later than the end of 2016;

(c) Welcoming the accession of the Government of South Sudan to the Convention on the Rights of the Child, which formally entered into force for South Sudan on 22 February 2015, and encouraging the Government to accede to the Optional Protocol thereto on the involvement of children in armed conflict;

(d) Welcoming the signing of a recommitment to the Cessation of Hostilities Agreement expressed in the document entitled "Areas of Agreement on the Establishment of a Transitional Government of National Unity", signed by the Government of South Sudan and SPLA in Opposition on 1 February 2015, while expressing concern at the failure of both parties to honour their commitments to date, and urging both parties to the agreement to respect all aspects of the cessation of hostilities agreements they are party to;

(e) Expressing grave concern at the violations and abuses committed against children in the armed conflict in violation of applicable international law, including those involving the recruitment and use of children, killing and maiming, rape and other forms of sexual violence, and attacks on schools and hospitals, and also expressing concern at the continued military use of schools in violation of applicable international law, and calling for an immediate halt to these violations and abuses, reminding that the primary responsibility for the protection of children in South Sudan lies with the Government of South Sudan, and urging the Government to take immediate steps in this regard;

(f) Expressing grave concern at the lack of accountability over violations and abuses committed against children in armed conflict, and urging the Government of South Sudan to end impunity through rigorous, timely, independent and impartial investigation and prosecution without any distinction on crimes committed against children;

(g) Calling upon the Government of South Sudan to ensure the implementation of the provisions of the recommitment agreement to the revised action plan and to ensure the enforcement of military command orders and punitive directives, in particular those prohibiting the recruitment and use of children, and unhindered United Nations access for verification and release of children associated with SPLA, and to criminalize the recruitment and use of children through revision of the Penal Code Act and the Child Act and ordering the vacation of all schools used by SPLA;

(h) Requesting the Government of South Sudan to continue its engagement with the country task force on monitoring and reporting in South Sudan and to implement the recommitment agreement to the revised action plan to end and prevent all violations and abuses committed against children;

(i) Calling upon the Government of South Sudan to establish, in collaboration with the United Nations, effective age verification and oversight procedures, as well as birth and late birth registration, in order to prevent the recruitment and use of children in the national armed and security forces;

(j) Further urging the Government of South Sudan to establish an effective vetting mechanism to ensure that no perpetrators of violations or abuses against children are integrated or recruited into SPLA and to systematically withdraw all perpetrators of violations and abuses committed against children from its forces, irrespective of their ranks, and hold them accountable;

(k) Urging the Government of South Sudan to facilitate full, safe and unhindered access to deliver timely humanitarian assistance, condemning in this regard the killing of five humanitarian workers in Upper Nile State in August 2014 and the commandeering and impounding of relief goods at SPLA and South Sudan

National Police Service checkpoints, and calling on the Government of South Sudan to expedite investigations, especially in relation to the killings;

(l) Calling upon the Government of South Sudan to allocate resources and further expedite the development and full implementation, with the support of the United Nations Children's Fund, of a comprehensive disarmament, demobilization and reintegration programme for children separated from armed forces and groups and ensuring that all children affected by the armed conflict are duly reintegrated;

(m) Encouraging the Government of South Sudan to focus on sustainable reintegration opportunities for all children affected by the armed conflict, including sensitization of communities to avoid stigmatization of these children, and that they are afforded reintegration opportunities on an equal basis, while ensuring that the specific needs of girls as well as those with disabilities are addressed;

(n) Inviting the Government of South Sudan to keep the Working Group on Children and Armed Conflict informed of its efforts to implement the recommendations of the Working Group and the Secretary-General, as appropriate.

14. The Working Group agreed to recommend that the President of the Security Council transmit a letter to the Secretary-General:

(a) Requesting the Secretary-General to ensure that the country task force on monitoring and reporting in South Sudan, and other relevant United Nations agencies, continue their efforts to support, within their respective mandates, the Government of South Sudan in addressing violations and abuses committed against children in armed conflict in violation of applicable international law, and to ensure that the matter of children and armed conflict in South Sudan is included as a specific aspect in all South Sudan country-specific reports;

(b) Further requesting the Secretary-General to ensure that the country task force on monitoring and reporting in South Sudan continues its engagement with the Government of South Sudan to implement the recommitment agreement to the revised action plan to end and prevent all violations committed against children and to continue advocacy for the release and reintegration of children associated with armed forces and armed groups, including in the context of the Cessation of Hostilities Agreement;

(c) Requesting the Secretary-General to call upon the country task force on monitoring and reporting in South Sudan to continue its engagement with SPLA in Opposition, in line with resolution 1612 (2005), to facilitate the full implementation of the Commitment Agreement to End Grave Violations against Children, signed between the SPLA in Opposition Chairman, Riek Machar, and the Special Representative of the Secretary-General for Children and Armed Conflict on 10 May 2014, and the development of an action plan for SPLA in Opposition;

(d) Requesting the Secretary-General to continue to ensure the effectiveness of the monitoring and reporting mechanism on children and armed conflict in South Sudan and of the child protection component of the United Nations Mission in South Sudan (UNMISS).

15. The Working Group agreed to recommend that the President of the Security Council transmit a letter to IGAD:

(a) Expressing support for the IGAD-led peace talks, which have been ongoing since January 2014, underscoring the importance of all parties to the armed conflict committing to the implementation of the Cessation of Hostilities Agreement and continuing their efforts to negotiate a full political solution that will lead to the establishment of a transitional government of national unity;

(b) Emphasizing the importance of mainstreaming child protection issues into the IGAD Monitoring and Verification Mechanism, which monitors, investigates and reports on compliance of the parties to the armed conflict with the Cessation of Hostilities Agreement;

(c) Urging all parties engaged in the South Sudan peace talks to ensure that child protection provisions are integrated into all peace negotiations and peace agreements.

16. The Working Group agreed to recommend that the President of the Security Council transmit a letter to the Chair of the Security Council Committee established pursuant to resolution 2206 (2015) concerning South Sudan:

(a) Recalling paragraph 9 (c) of resolution 1998 (2011), in which the Security Council requested enhanced communication between the Working Group and relevant Security Council Sanctions Committees, including through the exchange of pertinent information on violation and abuses committed against children in armed conflict;

(b) Encouraging the Committee to consider the designation for sanctions of individuals and entities, in accordance with the rules and guidelines of the Committee, and in this regard also encouraging exchange of pertinent information between the Special Representative of the Secretary-General for Children and Armed Conflict and the Committee.

17. The Working Group agreed to recommend the following to the Security Council:

(a) To ensure that the situation of children affected by the armed conflict in South Sudan continues to be taken into consideration by the Council when reviewing the mandate of UNMISS and its activities;

(b) To ensure the continuation of and support for the implementation of a child protection mandate for UNMISS, especially with regard to monitoring, investigating, verifying and reporting specifically on violations and abuses committed against children in the armed conflict, as well as preventing such violations and abuses, including through training and mainstreaming child protection.

Direct action by the Working Group

18. The Working Group agreed to send letters from the Chair of the Working Group addressed to the World Bank and other donors:

(a) Calling upon the World Bank and donors to support, with funding and technical assistance, the efforts of the Government of South Sudan and relevant humanitarian and development agencies in the following:

(i) Establishing effective recruitment procedures and age verification mechanisms in the national security forces to prevent recruitment and use of children consistent with its recommitment agreement to the revised action plan;

(ii) Supporting the development of a comprehensive and long-term rehabilitation and reintegration programme for all children formerly associated with armed forces and groups on an equal basis, including girls as well as those with disabilities;

(iii) Ensuring timely and appropriate medical and psychosocial assistance to child victims of rape and other forms of sexual violence committed in the armed conflict;

(iv) Bolstering education and health systems;

(v) Strengthening the criminal and military justice system to address impunity for violations and abuses committed against children in the armed conflict;

(vi) Promoting birth or late birth registration as a means to prevent underage recruitment and to guarantee comprehensive disarmament, demobilization and reintegration of children associated with armed forces and armed groups;

(b) Inviting the World Bank and donors to keep the Working Group informed on their funding and assistance efforts, as appropriate.

Annex

Statement by the Permanent Representative of South Sudan to the United Nations on the report of the Secretary-General on children and armed conflict in South Sudan (S/2014/884), made at the 53rd formal meeting of the Security Council Working Group on Children and Armed Conflict

6 February 2015

We welcome and appreciate the report of the Secretary-General on children and armed conflict inasmuch as it documents the crisis situation our children are in, particularly in the context of the current violent conflict in the country.

By the same token, we thank the Representative of the Secretary-General for Children and Armed Conflict for her tireless efforts to promote protecting and assisting children in armed conflict the world over, and in particular in our country.

From the time I participated on the panel that assisted Madame Graça Machel in her preparation of the initial study that resulted in the mandate of the Special Representative of the Secretary-General for Children and Armed Conflict, I have always maintained that children provide us with a common ground. Under normal circumstances, it would be very difficult to find any normal person who would not want to protect and assist children in need.

In our own traditional culture, war ethics strictly prevent harming children and women in war. Quite the contrary, if a woman covers a fallen warrior in a battle to protect him, that warrior must no longer be targeted.

How, therefore, do we explain the contrasting facts of the type so graphically documented in this report? An obvious answer is in the core of the mandate on children and armed conflict. It is widely accepted that current wars tend to target indiscriminately a wide category of perceived enemies, which, tragically, include civilians, women and children.

In our own situation, there are also other factors. In warrior societies, such as ours in South Sudan, male youth are classified into warrior age sets which a young man joins after becoming of age and is initiated into a warrior. That age is approximately equal to the age of 18 years that is set by international standards to qualify for recruitment.

Boys start training to become warriors in early childhood and are eager to grow up and be initiated into warriors, which bestows on them a special identity of pride and dignity. This is what Dr. Riek Machar, leader of the Sudan People's Liberation Movement/Army (SPLM/A) in Opposition, meant when he said that "the main challenge was the strong willingness among young people to pick up arms, combined with the fact that children are regarded as adults beginning at 15 years of age".

The fact is that this traditional propensity towards warfare is now being exploited by military leaders in today's wars. An aspect of this is also the breakdown of the traditional order and the disregard of the cultural values and code of conduct in war.

While it would be futile and self-defeating to deny the allegations in the report or be defensive, two reservations need to be made. First, responsibility for the abuse of children should be made more specific to avoid giving the indiscriminate impression that all authorities are involved. Second, the use of the term "violations", while reflecting the normative human rights language, gives the strong impression of intentionality behind the allegations.

It is noteworthy that the Special Representative received cooperation from all the leaders in her advocacy campaign and that South Sudan has signed documents committing the country to abide by the relevant United Nations instruments. The report indeed states that "In November 2013, the South Sudan Legislative Assembly approved the ratification of the Convention and President Kiir has since given his assent." As the war broke out shortly afterwards, in mid-December 2013, the fact that "accession to the Convention is pending" must be viewed as a delay in completing the legal formalities under the circumstances, rather than an unwillingness to accede.

The report provides massive statistics, small portions of which are said to have been verified. We would have welcomed some clarification of the term "verified" and the procedures or measures used in verification.

The issue of impunity connected with the presidential pardon of people who have committed atrocities and grave violations against children raises paradoxical questions. Since independence, President Kiir has endeavoured to promote peace and unity in South Sudan by granting amnesty to former militias and incorporating them into the army. Many of these have now rebelled again and joined the SPLM/A in Opposition. But at the time he granted them pardon, President Kiir was applauded for his actions. To punish people who have been pardoned would have been a dangerous contradiction that would have defeated the main purpose.

Finally, to conclude with a point to which I have already alluded, it has always been my belief that accusative language of violations tends to evoke denial and defensiveness, while a factual description of the problems and the need to address them cooperatively is a more promising, constructive and productive approach. This is not to criticize the human rights language of violations, but to suggest a perhaps complementary approach that elicits greater levels of constructive engagement.